

Order

Michigan Supreme Court
Lansing, Michigan

January 23, 2009

Marilyn Kelly,
Chief Justice

137838 & (79)(84)

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

AMERICAN STATES INSURANCE
COMPANY and MARK RATCLIFF, d/b/a
MARK RATCLIFF CONSTRUCTION
COMPANY,

Plaintiffs-Appellees/
Cross-Appellants,

and

SC: 137838
COA: 279022
Wayne CC: 05-522975-NZ

RICK HAMPTON, d/b/a VIP TRUCK &
TRAILER REPAIR, and MIKE FORBES,
Defendants-Appellants/
Cross-Appellees.

On order of the Court, the application for leave to appeal the October 28, 2008 judgment of the Court of Appeals and the application for leave to appeal as cross-appellant are considered. Pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration of the defendants' argument that the trial court erred in denying their motion for directed verdict, which issue was raised in the Court of Appeals, but was not decided by that court. In all other respects, the application for leave to appeal and the application for leave to appeal as cross-appellant are DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court. The motion to stay the trial court proceedings is GRANTED, and the proceedings in the Wayne Circuit Court are stayed pending the completion of this appeal. On motion of a party or on its own motion, the Court of Appeals may modify, set aside, or place conditions on the stay if it appears that the appeal is not being vigorously prosecuted or if other appropriate grounds appear.

We do not retain jurisdiction.

KELLY, C.J., would grant the application for leave to appeal and the cross-application for leave to appeal.



p0120

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 23, 2009

Corbin R. Davis

Clerk